

SENATE JOINT RESOLUTION

proposing an amendment to the Texas Constitution changing the name of the State Judicial Qualifications Commission to the State Commission on Judicial Conduct, and relating to the commission and the powers and proceedings of the commission, a master, and the supreme court, or court of civil appeals justices serving in place of the supreme court, for the suspension, censure, removal, or involuntary retirement of a justice, judge, or justice of the peace under certain circumstances.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

Section 1. That Subsections (2), (5), (7), (8), (9), (10), and (12) and Paragraph A of Subsection (6), Section 1-a, Article V of the Texas Constitution, be amended to read as follows:

"(2) The name of the State Judicial Qualifications Commission is changed to the State Commission on Judicial Conduct. The Commission consists ~~[There is hereby created the State Judicial Qualifications Commission, to consist]~~ of eleven (11) ~~[nine--(9)]~~ members, to wit: (i) two (2) Justices of Courts of Civil Appeals; (ii) two (2) District Judges; (iii) two (2) members of the State Bar, who have respectively practiced as such for over ten (10) consecutive years next preceding their selection; (iiii) four (4) ~~[three--(3)]~~ citizens, at least thirty (30) years of age, not licensed to practice law nor holding any salaried public office or employment; and (v) one (1) Justice of the Peace; provided that no person shall be or remain a member of the Commission, who does not

maintain physical residence within this State, or who resides in, or holds a judgeship within or for, the same Supreme Judicial District as another member of the Commission, or who shall have ceased to retain the qualifications above specified for his respective class of membership, except that the Justice of the Peace shall be selected at large without regard to whether he resides or holds a judgeship in the same Supreme Judicial District as another member of the Commission. Commissioners of classes (i) and (ii) above shall be chosen by the Supreme Court with advice and consent of the Senate, those of class (iii) by the Board of Directors of the State Bar under regulations to be prescribed by the Supreme Court with advice and consent of the Senate, and those of class (iiii) by appointment of the Governor with advice and consent of the Senate, and the commissioner of class (v) by appointment of the Supreme Court from a list of five (5) names submitted by the executive committee of the Justice of the Peace and Constables Association of Texas, with the advice and consent of the Senate. The initial term of the commissioner of class (v) and the fourth commissioner of class (iiii) added by this amendment terminates on November 19, 1979. Each person holding office as a member of the Commission on the effective date of this amendment continues to hold the office for the term for which he was appointed."

"(5) The Commission may hold its meetings, hearings and other proceedings at such times and places as it shall determine but shall meet at Austin at least once each year. It shall

1 annually select one of its members as Chairman. A quorum shall
2 consist of six (6) [~~five (5)~~] members. Proceedings shall be by
3 majority vote of those present, except that recommendations for
4 retirement, censure, suspension, or removal of any person holding
5 an office named in Paragraph A of Subsection (6) of this Section
6 shall be by affirmative vote of at least six (6) [~~five (5)~~]
7 members.

8 "(6)A. Any Justice or Judge of the Appellate Courts and
9 District and Criminal District Courts, and any County Judge, and
10 any Judge of a County Court at Law, a Court of Domestic Relations,
11 a Juvenile Court, a Probate Court, or a Corporation or Municipal
12 Court, and any Justice of the Peace, and any Judge or presiding
13 officer of any special court created by the Legislature as provided
14 in Section 1, Article V, of this Constitution, may, subject to the
15 other provisions hereof, be removed from office for willful or
16 persistent conduct, which is clearly inconsistent with the proper
17 performance of his said duties or casts public discredit upon the
18 judiciary or administration of justice; or any person holding such
19 office may be censured, in lieu of removal from office, under
20 procedures provided for by the Legislature. Any person holding an
21 office named in this subsection may be suspended from office with
22 or without pay by the Commission immediately on being indicted by a
23 State or Federal grand jury for a felony offense; or, on the filing
24 of a sworn complaint charging a person holding such office with
25 willful and persistent conduct which is clearly inconsistent with
26 the proper performance of his duties or which casts public

1 discredit on the judiciary or on the administration of justice, the
2 Commission, after giving the person notice and an opportunity to
3 appear before the Commission, may recommend to the Supreme Court
4 the suspension of such person from office. The Supreme Court,
5 after considering the record of such appearance and the
6 recommendation of the Commission, may suspend the person from
7 office with or without pay, pending final disposition of the
8 charge.

9 "(7) The Commission shall keep itself informed as fully as
10 may be of circumstances relating to the misconduct or disability of
11 particular persons holding an office named in Paragraph A of
12 Subsection (6) of this Section, receive complaints or reports,
13 formal or informal, from any source in this behalf and make such
14 preliminary investigations as it may determine. Its orders for the
15 attendance or testimony of witnesses or for the production of
16 documents at any hearing or investigation shall be enforceable by
17 contempt proceedings in the District Court or by a Master.

18 "(8) After such investigation as it deems necessary, the
19 Commission may in its discretion issue a private or public
20 reprimand, or if the Commission determines that the situation
21 merits such action, it may institute formal proceedings and order a
22 formal hearing to be held before it concerning the public censure,
23 removal, or retirement of a person holding an office named in
24 Paragraph A of Subsection (6) of this Section, or it may in its
25 discretion request the Supreme Court to appoint an active or
26 retired District Judge or Justice of a Court of Civil Appeals, or

1 retired Judge or Justice of the Court of Criminal Appeals or the
2 Supreme Court, as a Master to hear and take evidence in any such
3 matter, and to report thereon to the Commission. The Master shall
4 have all the power of a District Judge in the enforcement of orders
5 pertaining to witnesses, evidence, and procedure. If, after formal
6 hearing, or after considering the record and report of a Master,
7 the Commission finds good cause therefor, it shall issue an order
8 of public censure or it shall recommend to the Supreme Court the
9 removal, or retirement, as the case may be, of the person in
10 question holding an office named in Paragraph A of Subsection (6)
11 of this Section and shall thereupon file with the Clerk of the
12 Supreme Court the entire record before the Commission.

13 "(9) The Supreme Court shall review the record of the
14 proceedings on the law and facts and in its discretion may, for
15 good cause shown, permit the introduction of additional evidence
16 and shall order public censure, retirement or removal, as it finds
17 just and proper, or wholly reject the recommendation. Upon an
18 order for involuntary retirement for disability or an order for
19 removal, the office in question shall become vacant. The Supreme
20 Court, in an order for involuntary retirement for disability or an
21 order for removal, may prohibit such person from holding judicial
22 office in the future. The rights of an incumbent so retired to
23 retirement benefits shall be the same as if his retirement had been
24 voluntary.

25 "(10) All papers filed with and proceedings before the
26 Commission or a Master shall be confidential, unless otherwise

1 provided by law, and the filing of papers with, and the giving of
2 testimony before, the Commission, Master or the Supreme Court shall
3 be privileged, unless otherwise provided by law; provided that upon
4 being filed in the Supreme Court the record loses its confidential
5 character. However, the Commission may issue a public statement
6 through its executive director or its Chairman at any time during
7 any of its proceedings under this Section when sources other than
8 the Commission cause notoriety concerning a Judge or the Commission
9 itself and the Commission determines that the best interests of a
10 Judge or of the public will be served by issuing the statement."

11 "(12) No person holding an office named in Paragraph A of
12 Subsection (6) of this Section shall sit as a member of the
13 Commission [~~or Supreme Court~~] in any proceeding involving his own
14 suspension, censure, retirement or removal. A recommendation of
15 the Commission for the suspension, censure, retirement, or removal
16 of a Justice of the Supreme Court shall be determined by a tribunal
17 of seven (7) Court of Civil Appeals Justices selected by lot to
18 serve in place of the Supreme Court."

19 Sec. 2. The foregoing constitutional amendment shall be
20 submitted to a vote of the qualified electors of this state at an
21 election to be held on the first Tuesday after the first Monday in
22 November, 1977, at which election the ballots shall be printed to
23 provide for voting for or against the proposition: "The
24 constitutional amendment changing the name of the State Judicial
25 Qualifications Commission to the State Commission on Judicial
26 Conduct, and relating to the commission and the powers and

S.J.R. No. 30

1 proceedings of the commission, a master, and the supreme court, or
2 court of civil appeals justices serving in place of the supreme
3 court, for the suspension, censure, removal, or involuntary
4 retirement of a justice, judge, or justice of the peace under
5 certain circumstances."

S.J.R. No. 30

President of the Senate

Speaker of the House

I hereby certify that S.J.R. No. 30 was adopted by the senate on February 28, 1977, by the following vote: Yeas 21, Nays 8; May 25, 1977, senate concurred in house amendments by the following vote: Yeas 29, Nays 0.

Secretary of the Senate

I hereby certify that S.J.R. No. 30 was adopted by the house, with amendments, on May 24, 1977, by the following vote: Yeas 129, Nays 3, one present not voting.

Chief Clerk of the House

Approved:

Date

Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
..... 4:30 P.M. O'CLOCK

MAY 26 1977

Mark White
.....
Secretary of State

Filed w/o signature
Effective: to be voted on 11-8-77

1 By: Ogg

S.J.R. No. 30

2 (In the Senate - Filed January 25, 1977; January 26, 1977,
3 read first time and referred to Committee on Jurisprudence;
4 February 23, 1977, reported favorably, as amended; February 23,
5 1977, sent to printer.)

6 COMMITTEE AMENDMENT NO. 1

By: Doggett

7 Amend S.J.R. 30 by adding the words "or without" after the
8 word "with" on Page 2, lines 16 and 27.

9 SENATE JOINT RESOLUTION

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11 of the State Judicial Qualifications Commission to the State
12 Commission on Judicial Conduct, and relating to the commission and
13 the powers and proceedings of the commission, a master, and the
14 supreme court, or court of civil appeals justices serving in place
15 of the supreme court, for the suspension, censure, removal, or
16 involuntary retirement of a justice, judge, or justice of the peace
17 under certain circumstances.

18 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

19 Section 1. That Subsections (2), (5), (7), (8), (9), (10),
20 and (12) and Paragraph A of Subsection (6), Section 1-a, Article V
21 of the Texas Constitution, be amended to read as follows:

22 "(2) There is hereby created the State Commission on
23 Judicial Conduct, [~~State Judicial Qualifications Commission~~] to
24 consist of eleven (11) [~~nine (9)~~] members, to wit: (1) two (2)
25 Justices of Courts of Civil Appeals; (ii) two (2) District Judges;
26 (iii) two (2) members of the State Bar, who have respectively
27 practiced as such for over ten (10) consecutive years next
28 preceding their selection; (iiii) four (4) [~~three (3)~~] citizens, at
29 least thirty (30) years of age, not licensed to practice law nor
30 holding any salaried public office or employment; and (v) one (1)
31 Justice of the Peace; provided that no person shall be or remain a
32 member of the Commission, who does not maintain physical residence
33 within this State, or who resides in, or holds a judgeship within
34 or for, the same Supreme Judicial District as another member of the
35 Commission, or who shall have ceased to retain the qualifications
36 above specified for his respective class of membership, except that
37 the Justice of the Peace shall be selected at large without regard
38 to whether he resides or holds a judgeship in the same Supreme
39 Judicial District as another member of the Commission.
40 Commissioners of classes (i) and (ii) above shall be chosen by the
41 Supreme Court with advice and consent of the Senate, those of class
42 (iii) by the Board of Directors of the State Bar under regulations
43 to be prescribed by the Supreme Court with advice and consent of
44 the Senate, [~~and~~] those of class (iiii) by appointment of the
45 Governor with advice and consent of the Senate, and the
46 commissioner of class (v) by appointment of the Supreme Court from
47 a list of five (5) names submitted by the executive committee of
48 the Justice of the Peace and Constables Association of Texas, with
49 the advice and consent of the Senate. The initial term of the
50 commissioner of class (v) and the fourth commissioner of class
51 (iiii) added by this amendment terminates on November 19, 1979."

52 "(5) The Commission may hold its meetings, hearings and
53 other proceedings at such times and places as it shall determine
54 but shall meet at Austin at least once each year. It shall
55 annually select one of its members as Chairman. A quorum shall
56 consist of six (6) [~~five (5)~~] members. Proceedings shall be by
57 majority vote of those present, except that recommendations for
58 retirement, censure, suspension, or removal of any person holding
59 an office named in Paragraph A of Subsection (6) of this Section

shall be by affirmative vote of at least ~~six (6)~~ ~~[five (5)]~~ members.

"(6)A. Any Justice or Judge of the Appellate Courts and District and Criminal District Courts, and any County Judge, and any Judge of a County Court at Law, a Court of Domestic Relations, a Juvenile Court, a Probate Court, or a Corporation or Municipal Court, and any Justice of the Peace, and any Judge or presiding officer of any special court created by the Legislature as provided in Section 1, Article V, of this Constitution, may, subject to the other provisions hereof, be removed from office for willful or persistent conduct, which is clearly inconsistent with the proper performance of his said duties or casts public discredit upon the judiciary or administration of justice; or any person holding such office may be censured, in lieu of removal from office, under procedures provided for by the Legislature. Any person holding an office named in this subsection may be suspended from office with pay by the Commission immediately on being indicted by a State or federal grand jury for a felony offense; or, on the filing of a sworn complaint charging a person holding such office with willful and persistent conduct which is clearly inconsistent with the proper performance of his duties or which casts public discredit on the judiciary or on the administration of justice, the Commission, after giving the person notice and an opportunity to appear before the Commission, may recommend to the Supreme Court the suspension of such person from office. The Supreme Court, after considering the record of such appearance and the recommendation of the Commission, may suspend the person from office with pay, pending final disposition of the charge.

"(7) The Commission shall keep itself informed as fully as may be of circumstances relating to the misconduct or disability of particular persons holding an office named in Paragraph A of Subsection (6) of this Section, receive complaints or reports, formal or informal, from any source in this behalf and make such preliminary investigations as it may determine. Its orders for the attendance or testimony of witnesses or for the production of documents at any hearing or investigation shall be enforceable by contempt proceedings in the District Court or by a Master.

"(8) After such investigation as it deems necessary, the Commission may in its discretion issue a private or public reprimand, or if the Commission determines that the situation merits such action, it may institute formal proceedings and order a formal hearing to be held before it concerning the public censure, removal, or retirement of a person holding an office named in Paragraph A of Subsection (6) of this Section, or it may in its discretion request the Supreme Court to appoint an active or retired District Judge or Justice of a Court of Civil Appeals, or retired Judge or Justice of the Court of Criminal Appeals or the Supreme Court, as a Master to hear and take evidence in any such matter, and to report thereon to the Commission. The Master shall have all the power of a District Judge in the enforcement of orders pertaining to witnesses, evidence, and procedure. If, after formal hearing, or after considering the record and report of a Master, the Commission finds good cause therefor, it shall issue an order of public censure or it shall recommend to the Supreme Court the removal, or retirement, as the case may be, of the person in question holding an office named in Paragraph A of Subsection (6) of this Section and shall thereupon file with the Clerk of the Supreme Court the entire record before the Commission.

"(9) The Supreme Court shall review the record of the proceedings on the law and facts and in its discretion may, for good cause shown, permit the introduction of additional evidence and shall order public censure, retirement or removal, as it finds just and proper, or wholly reject the recommendation. Upon an

order for involuntary retirement for disability or an order for removal, the office in question shall become vacant. The Supreme Court, in an order for involuntary retirement for disability or an order for removal, may prohibit such person from holding judicial office in the future. The rights of an incumbent so retired to retirement benefits shall be the same as if his retirement had been voluntary.

"(10) All papers filed with and proceedings before the Commission ~~[or a Master]~~ shall be confidential, except that a formal hearing before the Commission or a Master, as provided in Subsection (8) of this Section, and any subsequent hearing of additional evidence before the Commission, the Master, or the Supreme Court, or Court of Civil Appeals Justices serving in place of the Supreme Court, shall be public, and the record filed in the Supreme Court is not confidential. The Commission may issue a public statement through its executive director or its Chairman at any time during any of its proceedings under this Section when sources other than the Commission cause notoriety concerning a judge or the Commission itself and the Commission determines that the best interests of a Judge or of the public will be served by issuing the statement ~~[and the filing of papers with, and the giving of testimony before, the Commission, Master or the Supreme Court shall be privileged, provided that upon being filed in the Supreme Court the record loses its confidential character]."~~

"(12) No person holding an office named in Paragraph A of Subsection (6) of this Section shall sit as a member of the Commission ~~[or Supreme Court]~~ in any proceeding involving his own suspension, censure, retirement or removal. A recommendation of the Commission for the suspension, censure, retirement, or removal of a Justice of the Supreme Court shall be determined by a tribunal of seven (7) Court of Civil Appeals Justices selected by lot to serve in place of the Supreme Court."

Sec. 2. The foregoing constitutional amendment shall be submitted to a vote of the qualified electors of this state at an election to be held on the first Tuesday after the first Monday in November, ____, at which election the ballots shall be printed to provide for voting for or against the proposition: "The constitutional amendment changing the name of the State Judicial Qualifications Commission to the State Commission on Judicial Conduct, and relating to the commission and the powers and proceedings of the commission, a master, and the supreme court, or court of civil appeals justices serving in place of the supreme court, for the suspension, censure, removal, or involuntary retirement of a justice, judge, or justice of the peace under certain circumstances."

* * * * *

Austin, Texas
February 23, 1977

Hon. William P. Hobby
President of the Senate

Sir:

We, your Committee on Jurisprudence, to which was referred S.J.R. No. 30, have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass, as amended, and be printed.

Schwartz, Chairman

FISCAL NOTE

February 15, 1977

Honorable A. R. Schwartz, Chairman
Committee on Jurisprudence
Senate Chamber
Austin, Texas

In Re: Senate Joint Resolution No. 30
By: Ogg

Sir:

In response to your request pursuant to Senate Rule 94, Subsection (g), this office finds the fiscal implications of Senate Joint Resolution No. 30 (proposing an amendment to the Texas Constitution changing the name of the State Judicial Qualifications Commission and the powers and proceedings of the Commission) to be as follows:

1. The resolution would make no appropriation but would constitute prior legislative authorization for an appropriative request.
2. The resolution, should it be approved by the electorate, would change the name of the State Judicial Qualifications Commission to the State Commission on Judicial Conduct and add two members to the Commission. The fiscal implications of the resolution amount to \$1,000 per year for mileage and per diem for each additional member. There would be a one-time-only cost of publication estimated at \$85,000 in fiscal year 1979.
3. The probable cost of implementing the provisions of the resolution during each of the first five years following passage is estimated as follows:

<u>Fiscal Year</u>	<u>General Revenue Fund</u>
1978	\$ -0-
1979	87,000
1980	2,000
1981	2,000
1982	2,000

4. Similar annual costs would continue as long as the provisions of the resolution are in effect.
5. No fiscal implication or additional cost to local government attributable to the resolution, should it be enacted, is anticipated.


Thomas M. Keel
Director

Source: State Judicial Qualifications Commission; Secretary of State;
LBB Staff.

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LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

February 15, 1977

Honorable A. R. Schwartz, Chairman
Committee on Jurisprudence
Senate Chamber
Austin, Texas

In Re: Senate Joint Resolution No. 30
By: Ogg

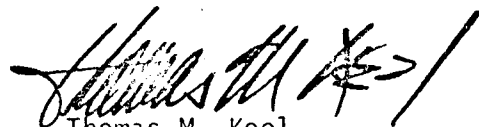
Sir:

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4. Similar annual costs would continue as long as the provisions of the resolution are in effect.
5. No fiscal implication or additional cost to local government attributable to the resolution, should it be enacted, is anticipated.


Thomas M. Keel
Director

Source: State Judicial Qualifications Commission; Secretary of State;
LBB Staff.

CR
~~Sub~~ Committee Amendment No. 1

By: Douglass

Amend S.J.R. 30 by adding the words "or without"
after the word "with" on Page 3, lines 26 and 16
15"

ADOPTED

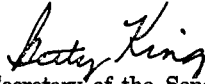
FEB 28 1977

Betty King
Secretary of the Senate

Amend the caption to conform to the
body of the bill

ADOPTED

FEB 28 1977


Secretary of the Senate

Feb. 28 1977 Engrossed
Patsy Spaw
Engrossing Clerk

By: Ogg

S.J.R. No. 30

SENATE JOINT RESOLUTION

proposing an amendment to the Texas Constitution changing the name of the State Judicial Qualifications Commission to the State Commission on Judicial Conduct, and relating to the commission and the powers and proceedings of the commission, a master, and the supreme court, or court of civil appeals justices serving in place of the supreme court, for the suspension, censure, removal, or involuntary retirement of a justice, judge, or justice of the peace under certain circumstances.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

Section 1. That Subsections (2), (5), (7), (8), (9), (10), and (12) and Paragraph A of Subsection (6), Section 1-a, Article V of the Texas Constitution, be amended to read as follows:

"(2) There is hereby created the State Commission on Judicial Conduct, [~~State Judicial Qualifications Commission~~] to consist of eleven (11) [~~nine (9)~~] members, to wit: (i) two (2) Justices of Courts of Civil Appeals; (ii) two (2) District Judges; (iii) two (2) members of the State Bar, who have respectively practiced as such for over ten (10) consecutive years next preceding their selection; (iiii) four (4) [~~three (3)~~] citizens, at least thirty (30) years of age, not licensed to practice law nor holding any salaried public office or employment; and (v) one (1) Justice of the Peace; provided that no person shall be or remain a member of the Commission, who does not maintain physical residence within this State, or who resides in, or holds a judgeship within

1 or for, the same Supreme Judicial District as another member of the
 2 Commission, or who shall have ceased to retain the qualifications
 3 above specified for his respective class of membership, except that
 4 the Justice of the Peace shall be selected at large without regard
 5 to whether he resides or holds a judgeship in the same Supreme
 6 Judicial District as another member of the Commission.
 7 Commissioners of classes (i) and (ii) above shall be chosen by the
 8 Supreme Court with advice and consent of the Senate, those of class
 9 (iii) by the Board of Directors of the State Bar under regulations
 10 to be prescribed by the Supreme Court with advice and consent of
 11 the Senate, ~~and~~ those of class (iiii) by appointment of the
 12 Governor with advice and consent of the Senate, and the
 13 commissioner of class (v) by appointment of the Supreme Court from
 14 a list of five (5) names submitted by the executive committee of
 15 the Justice of the Peace and Constables Association of Texas, with
 16 the advice and consent of the Senate. The initial term of the
 17 commissioner of class (v) and the fourth commissioner of class
 18 (iiii) added by this amendment terminates on November 19, 1979."

19 "(5) The Commission may hold its meetings, hearings and
 20 other proceedings at such times and places as it shall determine
 21 but shall meet at Austin at least once each year. It shall
 22 annually select one of its members as Chairman. A quorum shall
 23 consist of six (6) ~~five (5)~~ members. Proceedings shall be by
 24 majority vote of those present, except that recommendations for
 25 retirement, censure, suspension, or removal of any person holding
 26 an office named in Paragraph A of Subsection (6) of this Section

1 shall be by affirmative vote of at least ~~six~~ (6) [~~five~~ (5)]
2 members.

3 "(6)A. Any Justice or Judge of the Appellate Courts and
4 District and Criminal District Courts, and any County Judge, and
5 any Judge of a County Court at Law, a Court of Domestic Relations,
6 a Juvenile Court, a Probate Court, or a Corporation or Municipal
7 Court, and any Justice of the Peace, and any Judge or presiding
8 officer of any special court created by the Legislature as provided
9 in Section 1, Article V, of this Constitution, may, subject to the
10 other provisions hereof, be removed from office for willful or
11 persistent conduct, which is clearly inconsistent with the proper
12 performance of his said duties or casts public discredit upon the
13 judiciary or administration of justice; or any person holding such
14 office may be censured, in lieu of removal from office, under
15 procedures provided for by the Legislature. Any person holding an
16 office named in this subsection may be suspended from office with
17 or without pay by the Commission immediately on being indicted by a
18 State or federal grand jury for a felony offense; or, on the filing
19 of a sworn complaint charging a person holding such office with
20 willful and persistent conduct which is clearly inconsistent with
21 the proper performance of his duties or which casts public
22 discredit on the judiciary or on the administration of justice, the
23 Commission, after giving the person notice and an opportunity to
24 appear before the Commission, may recommend to the Supreme Court
25 the suspension of such person from office. The Supreme Court,
26 after considering the record of such appearance and the

1 recommendation of the Commission, may suspend the person from
2 office with or without pay, pending final disposition of the
3 charge.

4 "(7) The Commission shall keep itself informed as fully as
5 may be of circumstances relating to the misconduct or disability of
6 particular persons holding an office named in Paragraph A of
7 Subsection (6) of this Section, receive complaints or reports,
8 formal or informal, from any source in this behalf and make such
9 preliminary investigations as it may determine. Its orders for the
10 attendance or testimony of witnesses or for the production of
11 documents at any hearing or investigation shall be enforceable by
12 contempt proceedings in the District Court or by a Master.

13 "(8) After such investigation as it deems necessary, the
14 Commission may in its discretion issue a private or public
15 reprimand, or if the Commission determines that the situation
16 merits such action, it may institute formal proceedings and order a
17 formal hearing to be held before it concerning the public censure,
18 removal, or retirement of a person holding an office named in
19 Paragraph A of Subsection (6) of this Section, or it may in its
20 discretion request the Supreme Court to appoint an active or
21 retired District Judge or Justice of a Court of Civil Appeals, or
22 retired Judge or Justice of the Court of Criminal Appeals or the
23 Supreme Court, as a Master to hear and take evidence in any such
24 matter, and to report thereon to the Commission. The Master shall
25 have all the power of a District Judge in the enforcement of orders
26 pertaining to witnesses, evidence, and procedure. If, after formal

1 hearing, or after considering the record and report of a Master,
2 the Commission finds good cause therefor, it shall issue an order
3 of public censure or it shall recommend to the Supreme Court the
4 removal, or retirement, as the case may be, of the person in
5 question holding an office named in Paragraph A of Subsection (6)
6 of this Section and shall thereupon file with the Clerk of the
7 Supreme Court the entire record before the Commission.

8 "(9) The Supreme Court shall review the record of the
9 proceedings on the law and facts and in its discretion may, for
10 good cause shown, permit the introduction of additional evidence
11 and shall order public censure, retirement or removal, as it finds
12 just and proper, or wholly reject the recommendation. Upon an
13 order for involuntary retirement for disability or an order for
14 removal, the office in question shall become vacant. The Supreme
15 Court, in an order for involuntary retirement for disability or an
16 order for removal, may prohibit such person from holding judicial
17 office in the future. The rights of an incumbent so retired to
18 retirement benefits shall be the same as if his retirement had been
19 voluntary.

20 "(10) All papers filed with and proceedings before the
21 Commission ~~[or a Master]~~ shall be confidential, ~~except that a~~
22 ~~formal hearing before the Commission or a Master, as provided in~~
23 ~~Subsection (8) of this Section, and any subsequent hearing of~~
24 ~~additional evidence before the Commission, the Master, or the~~
25 ~~Supreme Court, or Court of Civil Appeals Justices serving in place~~
26 ~~of the Supreme Court, shall be public, and the record filed in the~~

1 Supreme Court is not confidential. The Commission may issue a
 2 public statement through its executive director or its Chairman at
 3 any time during any of its proceedings under this Section when
 4 sources other than the Commission cause notoriety concerning a
 5 judge or the Commission itself and the Commission determines that
 6 the best interests of a Judge or of the public will be served by
 7 issuing the statement [~~and the filing of papers with, and the~~
 8 ~~giving of testimony before the Commission, Master or the Supreme~~
 9 ~~Court shall be privileged, provided that upon being filed in the~~
 10 ~~Supreme Court the record loses its confidential character]."~~

11 "(12) No person holding an office named in Paragraph A of
 12 Subsection (6) of this Section shall sit as a member of the
 13 Commission [~~or Supreme Court~~] in any proceeding involving his own
 14 suspension, censure, retirement or removal. A recommendation of
 15 the Commission for the suspension, censure, retirement, or removal
 16 of a Justice of the Supreme Court shall be determined by a tribunal
 17 of seven (7) Court of Civil Appeals Justices selected by lot to
 18 serve in place of the Supreme Court."

19 Sec. 2. The foregoing constitutional amendment shall be
 20 submitted to a vote of the qualified electors of this state at an
 21 election to be held on the first Tuesday after the first Monday in
 22 November, ____, at which election the ballots shall be printed to
 23 provide for voting for or against the proposition: "The
 24 constitutional amendment changing the name of the State Judicial
 25 Qualifications Commission to the State Commission on Judicial
 26 Conduct, and relating to the commission and the powers and

1 proceedings of the commission, a master, and the supreme court, or
2 court of civil appeals justices serving in place of the supreme
3 court, for the suspension, censure, removal, or involuntary
4 retirement of a justice, judge, or justice of the peace under
5 certain circumstances."

COMMITTEE REPORT

The Honorable Bill Clayton
Speaker of the House of Representatives

5/19/77
(date)

Sir:

We, your COMMITTEE ON CONSTITUTIONAL AMENDMENTS, to whom was referred
have had the same under consideration and beg to report back with the recommendation that it

S.J.R. 30
(measure)

- (X) do pass, without amendment.
() do pass, with amendment(s).
() do pass and be not printed; a Complete Committee Substitute is recommended in lieu of the original measure.

A fiscal note was requested on 4/13/77 and is attached as part of this report.
(date)

~~Author's fiscal statement attached.~~

~~The Committee recommends that this measure be placed on the (Local / Consent) Calendar.~~

This measure (X) proposes new law.
() amends existing law.

House Sponsor of Senate Measure CHAVEZ

The measure was reported from Committee by the following vote:

	AYE	NAY	PNV	ABSENT
Von Dohlen	✓			
Jones				✓
Bryant	✓			
Clark, B.	✓			
Close				✓
Hendricks	✓			
Johnson				✓
Robbins	✓			
Schieffer				✓

Total: 5 aye
0 nay
0 present, not voting
4 absent

Tim Von Dohlen
CHAIRMAN
Reynolds
COMMITTEE COORDINATOR

BILL ANALYSIS

Background Information

Article V, Section 1-a of the Constitution creates the Judicial Qualifications Commission and details its membership, powers, and duties. The Commission consists of nine members appointed from classes set out in Sec. 1-a (2). The remainder of the sections detail the powers and duties of the Commission. The Commission's deliberations currently are required to be confidential at all stages. The Commission's enforcement powers currently do not include suspension or public reprimand.

Recent experience with the operation of the Commission revealed some weaknesses that this amendment is designed to remedy.

Purpose of the Resolution

To propose an amendment to the Texas Constitution changing the name of the State Judicial Qualifications Commission and relating to the powers and proceedings of its commission.

Section-by-section Analysis

Section 1. Amends Article V, Section 1 (a) to provide the following:

- 1) Changes the name of the State Judicial Qualifications Commission to the State Commission on Judicial Conduct;
- 2) Provides for four citizens members of the Commission instead of three;
- 3) Adds one Justice of the Peace to the Commission, who shall be selected at large from a list of five nominees submitted by the Justice of the Peace and Constables Association of Texas;
- 4) Provides that the terms of the new members shall terminate on November 19, 1979;
- 5) Provides for a quorum of six members;
- 6) Provides that the suspension of a judge must be by an affirmative vote of six members;
- 7) Provides that the Commission may suspend judges, and describes the conditions which allow for suspension;
- 8) Provides that a Master may enforce orders made in connection with a hearing by contempt proceedings;
- 9) Provides for a public reprimand in addition to a private reprimand;
- 10) Provides for a formal proceeding on the issue of a public censure;
- 11) Allows the appointment of a retired justice of the Court of Criminal Appeals or Supreme Court as a Master;
- 12) Provides that a Master shall have all the powers of a District Judge in enforcing orders pertaining to witnesses, evidence, and procedure;
- 13) Provides that an order of the Supreme Court for involuntary retirement for disability or for removal may prohibit the person from holding judicial office in the future;
- 14) Provides that proceedings and evidence in a formal hearing shall be public; and
- 15) Provides that a recommendation of suspension, removal, etc. of a Supreme Court Justice be determined by a tribunal of seven Justices of the Court of Civil Appeals.

Section 2. Provides that the proposed amendment be submitted to the voters at the general election held on the first Friday after the first Monday in November.

Summary of Committee Action

Pursuant to public notice posted in accordance with House Rule V, the Committee considered S.J.R. 30 in public hearing on April 20, 1977. The resolution remained pending business before the Committee. Pursuant to a suspension of the rules in accordance with House Rule 21, the Committee considered S.J.R. 30 in a public hearing on May 19, 1977. After discussion of the resolution, the Committee voted to report it favorably to the House by a vote of five ayes and no nays.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

April 13, 1977

Honorable Tim Von Dohlen, Chairman
Committee on Constitutional Amendments
House of Representatives
Austin, Texas

In Re: Senate Joint Resolution No. 30,
as engrossed
By: Ogg

Sir:

In response to your request pursuant to House Rule V, Section 28, this office finds the fiscal implications of Senate Joint Resolution No. 30, as engrossed (changing the name of the State Judicial Qualifications Commission to the State Commission on Judicial Conduct, and relating to the commission and the powers and proceedings of the commission) to be as follows:

The resolution would make no appropriation but would constitute prior legislative authorization for an appropriative request.

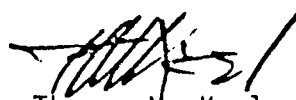
The resolution, should it be approved by the electorate, would change the name of the State Judicial Qualifications Commission to the State Commission on Judicial Conduct and add two members to the Commission. The fiscal implications of the resolution amount to \$1,000 per year for mileage and per diem for each additional member. There would be a one-time-only cost of publication estimated at \$85,000 in fiscal year 1979.

The probable cost of implementing the provisions of the resolution during each of the first five years following passage is estimated as follows:

<u>Fiscal Year</u>	<u>General Revenue Fund</u>
1978	\$ -0-
1979	87,000
1980	2,000
1981	2,000
1982	2,000

Similar annual costs would continue as long as the provisions of the resolution are in effect.

No fiscal implication or additional cost to local government attributable to the resolution, should it be enacted, is anticipated.


Thomas M. Keel
Director

Date MAY 24 1977
Read and Adopted

Betty Murray

Chief Clerk
House of Representatives

AMENDMENT BY CHAVEZ (1)

1 Amend S.J.R. No. 30 as follows:

2 (1) Strike the quoted Subsection (2) on page 1, lines 14-25,
3 and page 2, lines 1-18, and insert the following:

4 "(2) The name of the State Judicial Qualifications
5 Commission is changed to the State Commission on Judicial Conduct.
6 The Commission consists ~~[There-is-hereby-created-the-State-Judicial~~
7 ~~Qualifications-Commission,-to-consist]~~ of eleven (11) [nine-(9)]
8 members, to wit: (i) two (2) Justices of Courts of Civil Appeals;
9 (ii) two (2) District Judges; (iii) two (2) members of the State
10 Bar, who have respectively practiced as such for over ten (10)
11 consecutive years next preceding their selection; (iiii) four (4)
12 [three--(3)] citizens, at least thirty (30) years of age, not
13 licensed to practice law nor holding any salaried public office or
14 employment; and (v) one (1) Justice of the Peace; provided that no
15 person shall be or remain a member of the Commission, who does not
16 maintain physical residence within this State, or who resides in,
17 or holds a judgeship within or for, the same Supreme Judicial
18 District as another member of the Commission, or who shall have
19 ceased to retain the qualifications above specified for his
20 respective class of membership, except that the Justice of the
21 Peace shall be selected at large without regard to whether he
22 resides or holds a judgeship in the same Supreme Judicial District
23 as another member of the Commission. Commissioners of classes (i)
24 and (ii) above shall be chosen by the Supreme Court with advice and
25 consent of the Senate, those of class (iii) by the Board of

House Am. # (1)

1 Directors of the State Bar under regulations to be prescribed by
2 the Supreme Court with advice and consent of the Senate, ~~(and)~~
3 those of class (iiii) by appointment of the Governor with advice
4 and consent of the Senate, and the commissioner of class (v) by
5 appointment of the Supreme Court from a list of five (5) names
6 submitted by the executive committee of the Justice of the Peace
7 and Constables Association of Texas, with the advice and consent of
8 the Senate. The initial term of the commissioner of class (v) and
9 the fourth commissioner of class (iiii) added by this amendment
10 terminates on November 19, 1979. Each person holding office as a
11 member of the Commission on the effective date of this amendment
12 continues to hold the office for the term for which he was
13 appointed. "

14 (2) Strike "November, _____," on page 6, line 22, and insert
15 "November, 1977,".

Amendment No.

②

By:

V. Doherty

Amend S.J.R. 30 by deleting all of Subsection (10) on pages 5 and 6 and substituting therefore the following:

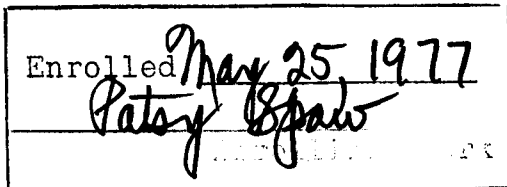
"(10) All papers filed with and proceedings before the Commission or a Master shall be confidential, unless otherwise provided by law, and the filing of papers with, and the giving of testimony before, the Commission, Master or the Supreme Court shall be privileged, unless otherwise provided by law, provided that upon being filed in the Supreme Court the record loses its confidential character. However, the Commission may issue a public statement through its executive director or its Chairman at any time during any of its proceedings under this Section when sources other than the Commission cause notoriety concerning a Judge, or the Commission itself and the Commission determines that the best interests of a Judge or of the public will be served by issuing the statement."

Date MAY 24 1977
Read and Adopted

Betty Murray

Chief Clerk
House of Representatives

Insert House am. # ②



S.J.R. No. 30

SENATE JOINT RESOLUTION

proposing an amendment to the Texas Constitution changing the name of the State Judicial Qualifications Commission to the State Commission on Judicial Conduct, and relating to the commission and the powers and proceedings of the commission, a master, and the supreme court, or court of civil appeals justices serving in place of the supreme court, for the suspension, censure, removal, or involuntary retirement of a justice, judge, or justice of the peace under certain circumstances.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

Section 1. That Subsections (2), (5), (7), (8), (9), (10), and (12) and Paragraph A of Subsection (6), Section 1-a, Article V of the Texas Constitution, be amended to read as follows:

"(2) The name of the State Judicial Qualifications Commission is changed to the State Commission on Judicial Conduct. The Commission consists ~~[There is hereby created the State Judicial Qualifications Commission, to consist]~~ of eleven (11) ~~[nine--(9)]~~ members, to wit: (1) two (2) Justices of Courts of Civil Appeals; (11) two (2) District Judges; (111) two (2) members of the State Bar, who have respectively practiced as such for over ten (10) consecutive years next preceding their selection; (1111) four (4) ~~[three--(3)]~~ citizens, at least thirty (30) years of age, not licensed to practice law nor holding any salaried public office or employment; and (v) one (1) Justice of the Peace; provided that no person shall be or remain a member of the Commission, who does not

maintain physical residence within this State, or who resides in, or holds a judgeship within or for, the same Supreme Judicial District as another member of the Commission, or who shall have ceased to retain the qualifications above specified for his respective class of membership, except that the Justice of the Peace shall be selected at large without regard to whether he resides or holds a judgeship in the same Supreme Judicial District as another member of the Commission. Commissioners of classes (i) and (ii) above shall be chosen by the Supreme Court with advice and consent of the Senate, those of class (iii) by the Board of Directors of the State Bar under regulations to be prescribed by the Supreme Court with advice and consent of the Senate, ~~and~~ those of class (iiii) by appointment of the Governor with advice and consent of the Senate, and the commissioner of class (v) by appointment of the Supreme Court from a list of five (5) names submitted by the executive committee of the Justice of the Peace and Constables Association of Texas, with the advice and consent of the Senate. The initial term of the commissioner of class (v) and the fourth commissioner of class (iiii) added by this amendment terminates on November 19, 1979. Each person holding office as a member of the Commission on the effective date of this amendment continues to hold the office for the term for which he was appointed."

"(5) The Commission may hold its meetings, hearings and other proceedings at such times and places as it shall determine but shall meet at Austin at least once each year. It shall

1 annually select one of its members as Chairman. A quorum shall
2 consist of six (6) [~~five (5)~~] members. Proceedings shall be by
3 majority vote of those present, except that recommendations for
4 retirement, censure, suspension, or removal of any person holding
5 an office named in Paragraph A of Subsection (6) of this Section
6 shall be by affirmative vote of at least six (6) [~~five (5)~~]
7 members.

8 "(6)A. Any Justice or Judge of the Appellate Courts and
9 District and Criminal District Courts, and any County Judge, and
10 any Judge of a County Court at Law, a Court of Domestic Relations,
11 a Juvenile Court, a Probate Court, or a Corporation or Municipal
12 Court, and any Justice of the Peace, and any Judge or presiding
13 officer of any special court created by the Legislature as provided
14 in Section 1, Article V, of this Constitution, may, subject to the
15 other provisions hereof, be removed from office for willful or
16 persistent conduct, which is clearly inconsistent with the proper
17 performance of his said duties or casts public discredit upon the
18 judiciary or administration of justice; or any person holding such
19 office may be censured, in lieu of removal from office, under
20 procedures provided for by the Legislature. Any person holding an
21 office named in this subsection may be suspended from office with
22 or without pay by the Commission immediately on being indicted by a
23 State or Federal grand jury for a felony offense; or, on the filing
24 of a sworn complaint charging a person holding such office with
25 willful and persistent conduct which is clearly inconsistent with
26 the proper performance of his duties or which casts public

1 discredit on the judiciary or on the administration of justice, the
2 Commission, after giving the person notice and an opportunity to
3 appear before the Commission, may recommend to the Supreme Court
4 the suspension of such person from office. The Supreme Court,
5 after considering the record of such appearance and the
6 recommendation of the Commission, may suspend the person from
7 office with or without pay, pending final disposition of the
8 charge.

9 "(7) The Commission shall keep itself informed as fully as
10 may be of circumstances relating to the misconduct or disability of
11 particular persons holding an office named in Paragraph A of
12 Subsection (6) of this Section, receive complaints or reports,
13 formal or informal, from any source in this behalf and make such
14 preliminary investigations as it may determine. Its orders for the
15 attendance or testimony of witnesses or for the production of
16 documents at any hearing or investigation shall be enforceable by
17 contempt proceedings in the District Court or by a Master.

18 "(8) After such investigation as it deems necessary, the
19 Commission may in its discretion issue a private or public
20 reprimand, or if the Commission determines that the situation
21 merits such action, it may institute formal proceedings and order a
22 formal hearing to be held before it concerning the public censure,
23 removal, or retirement of a person holding an office named in
24 Paragraph A of Subsection (6) of this Section, or it may in its
25 discretion request the Supreme Court to appoint an active or
26 retired District Judge or Justice of a Court of Civil Appeals, or

retired Judge or Justice of the Court of Criminal Appeals or the
Supreme Court, as a Master to hear and take evidence in any such
 matter, and to report thereon to the Commission. The Master shall
have all the power of a District Judge in the enforcement of orders
pertaining to witnesses, evidence, and procedure. If, after formal
 hearing, or after considering the record and report of a Master,
 the Commission finds good cause therefor, it shall issue an order
 of public censure or it shall recommend to the Supreme Court the
 removal, or retirement, as the case may be, of the person in
 question holding an office named in Paragraph A of Subsection (6)
 of this Section and shall thereupon file with the Clerk of the
 Supreme Court the entire record before the Commission.

"(9) The Supreme Court shall review the record of the
 proceedings on the law and facts and in its discretion may, for
 good cause shown, permit the introduction of additional evidence
 and shall order public censure, retirement or removal, as it finds
 just and proper, or wholly reject the recommendation. Upon an
 order for involuntary retirement for disability or an order for
 removal, the office in question shall become vacant. The Supreme
Court, in an order for involuntary retirement for disability or an
order for removal, may prohibit such person from holding judicial
office in the future. The rights of an incumbent so retired to
 retirement benefits shall be the same as if his retirement had been
 voluntary.

"(10) All papers filed with and proceedings before the
 Commission or a Master shall be confidential, unless otherwise

1 provided by law, and the filing of papers with, and the giving of
2 testimony before, the Commission, Master or the Supreme Court shall
3 be privileged, unless otherwise provided by law; provided that upon
4 being filed in the Supreme Court the record loses its confidential
5 character. However, the Commission may issue a public statement
6 through its executive director or its Chairman at any time during
7 any of its proceedings under this Section when sources other than
8 the Commission cause notoriety concerning a Judge or the Commission
9 itself and the Commission determines that the best interests of a
10 Judge or of the public will be served by issuing the statement."

11 "(12) No person holding an office named in Paragraph A of
12 Subsection (6) of this Section shall sit as a member of the
13 Commission [~~or Supreme Court~~] in any proceeding involving his own
14 suspension, censure, retirement or removal. A recommendation of
15 the Commission for the suspension, censure, retirement, or removal
16 of a Justice of the Supreme Court shall be determined by a tribunal
17 of seven (7) Court of Civil Appeals Justices selected by lot to
18 serve in place of the Supreme Court."

19 Sec. 2. The foregoing constitutional amendment shall be
20 submitted to a vote of the qualified electors of this state at an
21 election to be held on the first Tuesday after the first Monday in
22 November, 1977, at which election the ballots shall be printed to
23 provide for voting for or against the proposition: "The
24 constitutional amendment changing the name of the State Judicial
25 Qualifications Commission to the State Commission on Judicial
26 Conduct, and relating to the commission and the powers and

1 proceedings of the commission, a master, and the supreme court, or
2 court of civil appeals justices serving in place of the supreme
3 court, for the suspension, censure, removal, or involuntary
4 retirement of a justice, judge, or justice of the peace under
5 certain circumstances."

S.J.R. No. 30

President of the Senate

Speaker of the House

I hereby certify that S.J.R. No. 30 was adopted by the senate on February 28, 1977, by the following vote: Yeas 21, Nays 8; May 25, 1977, senate concurred in house amendments by the following vote: Yeas 29, Nays 0.

Secretary of the Senate

I hereby certify that S.J.R. No. 30 was adopted by the house, with amendments, on May 24, 1977, by the following vote: Yeas 129, Nays 3, one present not voting.

Chief Clerk of the House

Approved:

Date

Governor

S. J. R. No. 30

By Ogg

SENATE JOINT RESOLUTION

proposing an amendment to the Texas Constitution changing the name of the State Judicial Qualifications Commission to the State Commission on Judicial Conduct, and relating to the commission and the powers and proceedings of the commission, a master, and the supreme court, or court of civil appeals justices serving in place of the supreme court.

Filed with the Secretary of the Senate

JAN 26 1977

Read, referred to Committee on JURISPRUDENCE

FEB 23 1977

Reported favorably as amended

Reported adversely, with favorable Committee Substitute; Committee Substitute read first time.

Ordered not printed.

FEB 28 1977

Senate and Constitutional Rules to permit consideration suspended by

unanimous consent

To permit consideration, reading and passage, Senate and Constitutional Rules suspended by vote of 27 yeas, 2 nays.

FEB 28 1977

Read second time amended and ordered engrossed, passed to third reading.

FEB 28 1977

Caption ordered amended to conform to body of bill.

FEB 28 1977

Senate and Constitutional 3-Day Rules suspended by vote of 27 yeas, 2 nays to place bill on third reading and final passage.

FEB 28 1977

Read third time and passed by 27 yeas, 8 nays.

OTHER ACTION

Betty Murray
Secretary of the Senate

Jan 22 1977

Engrossed

March 1 1977

Sent to HOUSE

Patsy Spaw
ENGROSSING CLERK

MAR 2 1977

Received from
the Senate

Betty Murray
Chief Clerk, House of Representatives

READ FIRST TIME
AND REFERRED TO COMMITTEE ON

MAR 3 1977

Constitutional Amendments

MAY 13 1977

Favorably

MAY 20 1977

Reported unanimously as amended, Sent to Printer 11:05 AM

MAY 20 1977

Printed and Distributed 12:35 PM

MAY 20 1977

Sent To Committee On Calendars 1:57 PM

DATE

MAY 24 1977

READ AND ADOPTED

as amended

CHIEF CLERK
HOUSE OF REPRESENTATIVES

Raymond D. Baker

Unanimous consent granted to amend
caption of Senate Bill No. 30 to
conform to body of bill.

129 yeas 3 nays 1 PMV

RETURNED TO SENATE MAY 24 1977

MAY 24 1977

RETURNED with amendments
FROM HOUSE

MAY 25 1977

Senate concurred in House amend-
ments by the following vote: 29
yeas, 0 nays.

1977 MAY 20 PM 12:35

HOUSE OF REPRESENTATIVES

18
J. Edgar Hoover
FBI
MAY 25 1977